

**BLUE RIBBON TASK FORCE ON ETHICS
MEETING NOTES**

Thursday, October 28, 2004

City Hall – Room 204

Present: Councilmember Ken Yeager (Chair)
Vice Mayor Pat Dando
Councilmember Cindy Chavez
Councilmember Chuck Reed

Absent: None.

Staff: City Clerk, Lee Price
City Attorney Richard Doyle
Norm Sato, City Attorney's Office
Peter Jensen, City Manager's Office

I Introduction

Council Member Yeager called the meeting to order at 10-08 a.m.

II Task Force Discussion and Incorporation into the Work Plan of any proposed Work Plan amendments

Upon motion by Council Member Chavez, seconded by Council Member Reed, and unanimously carried, the Task Force approved the Work Plan, as revised.

III Task Force Review/Discussion of and Recommendation for Officeholder Accounts (Intent and restrictions) and Fundraising Provisions

Senior Deputy City Attorney Norm Sato summarized current provisions and responded to questions. There was agreement among the members of the Task Force that the Mayor has the need for greater flexibility to attend fundraisers and otherwise travel to influence legislation and promote economic development strategies.

Upon motion by Council Member Yeager, seconded by Vice Mayor Dando, and unanimously carried, the City Attorney was given the following directions: 1) clarify if and how officeholder accounts may be used in local or State elections; 2) revise the Municipal Code to limit political action committees to just one Officeholder Account; 3)

increase the amount of the Mayor's Officeholder Account from \$10,000 to \$50,000, with individual contributions increased from \$250 to a maximum of \$500 each; 4) to maintain the current amount of Council Member's Officeholder Accounts at \$10,000 (with a maximum contribution amount of \$250 each); and to send the ordinance changes directly to the City Council on November 16, 2004.

IV Task Force Review/Discussion of and Recommendations for Campaign Contribution and Disclosure Provisions.

Senior Deputy City Attorney Norm Sato summarized the staff report and responded to questions.

Council Member Reed, referencing his memorandum on the topic, recommended the elimination of loopholes regarding independent expenditures, making more accountable campaign consultants, expanded remedies and penalties for violations, and greater clarity around the rules.

Following discussion, the City Attorney was directed to come back with definitions for "agent", "representative", and "consultant" and language to consider that would set limits on independent expenditures. It was suggested that revisions to the ordinance include references to the Political Reform Act and/or the Fair Political Practices Commission, where appropriate. Finally, the City Attorney was asked to provide more information to the Task Force that demonstrates where the City of San José rules for campaign disclosure differ from State law.

Other suggestions included asking the Elections Commission to comment about what aspects of the ordinance they are having difficulty with interpretations. Council Member Reed also noted that it should not be wrong for the City Attorney or the Clerk to raise issues with and/or point errors to filers. Council Member Yeager proposed that some consideration be given to the cost to run campaigns and mentioned that expenses (like that of postage) are higher than when the limits were initially imposed.

Council Member Yeager requested that staff return next time with more information about campaign contribution and spending limits in other large cities.

V Task Force Review/Discussion of and Recommendations for Council Policy 0-28 (Censure) and related issues.

Brief discussion ensued regarding unethical campaigning and last minute "hit pieces". Vice Mayor Dando asked if the censure policy could be imposed on candidates for office. Senior Deputy City Attorney Norm Sato indicated that it applies only to elected officials

and added that the Elections Commission has no jurisdiction in this area or remedies for violations or wrongdoing by candidates.

Public Comments:

Elections Commission Chair Tom Mertens noted that the Commission looked at this issue a few years ago, but added that no real recommendation came out of the discussion. Council Member Yeager suggested that the Commission might want to take another look at this issue. It was suggested that the Chair conduct some research about other successful programs in the County that work with candidates and organizations to ensure “clean” campaigns.

Bobbi Fischler, League of Women Voters, mentioned that the League is working with the cities of Milpitas and Santa Clara on this issue and announced that a program entitled “Final Word” will air on the Monday before Election Day. The program is an opportunity to compliment ethical campaigns and point out offensive materials.

---end of public comments---

Discussion resumed about the Censure Policy. Council Member Reed expressed some frustration about the inability to take some action without a long and lengthy investigation. Council Member Chavez asked how this could be done without assigning guilt. Council Member Reed argued that the Policy should be amended to allow for another level of “admonishment” or “reprimand.

City Attorney Doyle advised the Task Force the Censure Policy does not provide for censure in situations when a criminal investigation is pending, but offered that the Task Force could recommend options for a broader policy with different levels of condemnation. Council Member Reed reiterated the need for a “road map” of options and suggested that the Policy be amended to include the ability to adopt a “Resolution of Concern”. Vice Mayor Dando pointed out the need to address the behavior and not the person.

Public Comments:

Council Member LeZotte asked if it was a conflict of interest on the part of a council member considered for censure to vote on the issue of censure. City Attorney Doyle advised that conflict of interest laws generally involve financial conflicts, but common law conflicts may exist.

---end of public comments---

VI. Oral Communication

There were none.

VII Adjournment/Next Meeting

The meeting was adjourned at 11:48 a.m. The next meeting of the Task Force will be November 1, 2004 at 10:00 a.m.